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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,509	09/13/2000	Nurith Shaklai	2290.00122	2576

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Amy E Rinaldo
Kohn & Associates
30500 Northwestern Highway
Suite 410
Farmington Hills, MI 48334

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 03/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/661509

Applicant(s)

SHAKLAI

Examiner

S. WEINSTEIN

Group Art Unit

1761

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-3 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-3 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Restriction to one of the following inventions is required under 35 USC 121:

Group I, claim 1, drawn to a method of inhibiting pathogen growth in meat classified in class 426, subclass 316.

Group II, claims 2 and 3 (formerly claims 31 and 32 as originally filed, and renumbered claims 2 and 3, respectively under 37 CFR 1.126), drawn to a pathogen growth inhibitor comprising carbon monoxide gas classified in class 424.

The inventions are distinct, each from the other because the product as claimed in Group II could be used in methods other than that recited in Group I. For example, not only could the carbon monoxide gas be used to inhibit pathogen growth in foods other than meats, carbon monoxide could be and has been used to retard respiration of fruits and vegetables which increases produce shelf life. It could also be used as an inert gas to prevent oxidation of oxygen sensitive products, edible or inedible.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art, requiring separate searches, as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined, even if the requirement is traversed (37 CFR 1.143).

Applicant is also referred to the decision Granting Petition mailed May 25, 2001, paper no. 4. The Decision notes that applicant's transmittal indicated that 54 pages of

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specification were filed but only 24 pages (numbered 1-24) are present in the Office file copy. Also, applicant's preliminary amendment filed September 13, 2000 paper no. 7 states that claims 1-13 and 31 and 32 remain in the application. No claims numbered 1-30, or any other number are present in the Office filed copy as filed with the specification. The Decision of May 25, 2001 accepts claims 1, 31, 32 presented in the Preliminary Amendment as presently pending claims. Since no other claims are present, these are the only claims pending in this application.

Clarification and/or correction of both of these points is requested. For example, is part of the specification unintentionally missing and, if so, what affect does this omission have on enablement?

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (703) 308-3959. The examiner can generally be reached on Monday to Friday from 7:00 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the organization where this application is assigned is (703) 305-7118.

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Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven Weinstein/om

March 12, 2002

March 21, 2002

Stu Weinstein
STEVEN WEINSTEIN
PRIMARY EXAMINER
ART UNIT 132 1761
3/25/02